

APPROVED: MEETING NO. 41-84

ATTEST: *Helen M. Hovsepian*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 38-84

October 29, 1984

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room, City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, October 29, 1984, at 7:30 a.m. for the purpose of discussing property disposition.

PRESENT

Mayor pro tem Steve Abrams
Councilman Douglas Duncan
Councilwoman Viola Hovsepian
Councilman John Tyner, II

ABSENT

Mayor John R. Freeland
(Personal Business)

The Mayor pro tem in the Chair.

Re: Adjournment

There being no further business to come before the Council in Executive Session the meeting was adjourned at 8:30 a.m. to convene again in general session at 8:00 p.m. tonight.

Re: General Session

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, October 29, 1984, at 8:00 p.m.

Re: City Manager's Report

Mr. Blick reported the following:

1. The Halloween Goblin nights were held last week at five locations around the City. There was an average attendance of 350 per site for a total of 1750 persons. The Enchanted Castle was held at the Senior Center for youngsters Saturday and Sunday, and 1,200 people attended that event.

The Catfish Rodeo was held Saturday and Sunday at the Pool. There were approximately 600 participants and a total of attendance of about 1,000.

2. The Planning Commission has set their public hearing on Planning Area 12 for November 20. It will be held at 8:00 p.m. at Richard Montgomery High School Auditorium.

Councilwoman Hovsepien asked if the Council might have an update on the status of Jefferson Street.

Mayor Pro Tem Abrams offered his compliments to Jeff Williams of the City staff on the splendid job he did on the Recreation events for Halloween and it exceeded all expectations.

Re: Mayor's Resignation

Mayor pro tem Abrams asked the City Clerk if she would read the letter she had received from the Mayor, John Freeland. The Clerk read the following:

"As of midnight, 18 November, 1984, I will regretfully leave the office of Mayor for serious personal reasons. It is my desire for the Council to quickly decide on a process for selecting my replacement; that they tell the public as soon as possible; and that they accomplish the task in time to meet the 18 November, 1984, date. In the event they fail to accomplish the task, I will remain in position until the issue is resolved."

The letter was signed, John K. Freeland.

Mayor pro tem Abrams said he is saddened by the letter and the circumstances that bring him to the chair this evening. He asked the City Attorney if he would explain the process that exists for filling a vacancy created by the Mayor's resignation. The City Attorney read from the City Charter to the Council "in case of a vacancy in the office of the Mayor ... the

Council shall elect some qualified person including an incumbent Councilmember to fill the vacancy for the remainder of the unexpired term. Any vacancies ... shall be filled by the favorable votes of a majority of the remaining members of the Council." This would mean three votes.

Councilwoman Hovsepien said one suggestion she had heard was to advertise the Mayor's vacancy, this may be a valid way to go. If it were to be an interim appointment, a prior member of the Mayor and Council might agree to do it on the terms that it would be interim. Councilman Tyner suggested a series of Mayors pro tem and asked if that would be a viable alternative. The City Attorney explained that although it is a possible alternative, there would be no opportunity to fill a Council seat since no vacancy would exist. Councilman Duncan said he agrees with Councilwoman Hovsepien on the advertising; however, he would not limit it to the people who had previously served the City since that would exclude others who might be interested. The November 18 date would give the Council time.

Councilman Tyner said he is fully prepared to select one of his colleagues on the Council as Mayor, since, in all due modesty, he feels there are no people more qualified to discuss the major issues that come before the Mayor and Council. He would have no problem going outside to select a Councilmember.

Mayor pro tem Abrams suggested that although the vote for Mayor would be in public session, it is his feeling that discussions and the criteria would be appropriate topics for Executive Session. Mr. Glasgow agreed that those matters provide an overriding reason to close the meeting. Mayor pro tem Abrams said the discussion can take place among the four remaining members of the Council. Anyone interested in being on the Council should contact one of them. Councilman Tyner asked that the City Clerk be present at the meetings. The Mayor pro tem Abrams and the other Councilmembers agreed to this and asked Mrs. Heneghan if she would attend.

October 29, 1984

Re: Appointments

The following appointments were confirmed by the Council:

Rockville Senior Inc.: August (Gus) Seeger - one year term
1028 Gilbert Road
Rockville, Maryland

Senior Citizens Commission: Thomas Reilly - appointed Chairman for 1 year

ACSC: Dorothy Ott - reappointed for a two-year term

Re: Citizen's Forum

Mayor pro tem Abrams opened the meeting to those citizens who wished to address the Mayor and Council.

1. Robert Jacques. Mr. Jacques said he is concerned with the fact that the Mayor and Council will be discussing the procedure for selection of a new Mayor and Council in executive session. He feels that the procedures should be discussed in open session. The Council explained that their procedure had just been discussed openly, it was only the qualifications of various persons that would be reserved for private meetings. Mr. Jacques suggested the rotation of the Mayor's seat could be illegal and it might not be a good idea to bring in a politically truncated or emasculated person to the Council. It was his hope the decision would be made by the four Councilmembers quickly.

2. Carole Cohen. Ms. Cohen spoke to the Council concerning the municipal swimming pool and said it is the most fantastic recreation facility available anywhere. Members receive every penny of value from the fees paid. It is her hope that the rate will hold for another year.

There being no other citizen wishing to be heard, Mayor pro tem Abrams closed the citizen's forum portion of the Meeting.

Re: Presentation by
Peerless Rockville

Eileen McGuckian addressed the Council concerning the Certified Local

Government Grant that was received by Peerless Rockville. They have just completed Phase I and have submitted the products to the Maryland Historical Trust and the Rockville Historic District Commission. This is the result of a comprehensive research and inventory project. She introduced Ms. Ann Cissel who presented a slide show to the Council of the historic homes in the City. The Mayor and Council thanked Ms. Cissel for the presentation and Mayor pro tem Abrams asked if it might be made available to the schools. Mr. Davis told the Council that the detailed program for Phase II will be on the Mayor and Council's agenda for November 19 decision.

Re: Approval of letter of understanding in connection with an amended and restated disposition and development agreement for the Town Center

Mayor pro tem Abrams deferred this item until the end of the agenda.

Re: Adoption of Resolution: To establish a permit parking district in land located near and adjacent to the B&O/Rockville station and designated as the Croydon Park/East Rockville area.

Resolution No. 36-84

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Resolution No. 36-84, the full text of which can be found in Resolution Book No. 8, was adopted, establishing a permit parking district in land located near and adjacent to the B&O/Rockville station and designated as the Croydon Park/East Rockville area.

Meeting No. 38-84

-6-

October 29, 1984

Re: Adoption of Resolution: To establish a permit parking district on certain streets near and adjacent to the Metro-Twinbrook station, known as Twinbrook.

Resolution No. 37-84

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Resolution No. 37-84, to establish a permit parking district on certain streets near and adjacent to the Metro Twinbrook station, known as Twinbrook, was adopted by the Mayor and Council.

Re: Preliminary Review and Referral of Text Amendment, T-63-84, J. A. Lynott, Attorney, Applicant, a request to grandfather existing nonconforming restaurant use in the TCO-1 zone.

The subject text amendment application has been filed for the purpose of adding a modified "grandfather clause" to the Zoning Ordinance so that an existing free-standing restaurant building (Paisano's) in the TCO-1 Zone will not be regarded as a nonconforming use or a development nonconformity. This modified clause will only allow such use, if damaged, to be rebuilt, repaired or reconstructed only to the extent of the original floor place.

On motion of Councilwoman Hovsepien, duly seconded and passed by unanimous vote of all present, Text Amendment T-63-84, was referred to the Planning Commission for further review.

Re: Award of Contract: Cooperative COG Bid No. 9278, solar salt

The above referenced Invitation for Bid was issued for the purchase of

Solar Salt for the participating jurisdictions which included the City of Rockville.

Bids were opened on September 11, 1984, and three bids were received. Based on the evaluation cited below, award was made on November 11, 1984, to Morton Salt Company by Prince George's County.

Per the terms of the Invitation for Bid, each jurisdiction is to execute its own contract and issue a subsequent Purchase Order.

The following bids were received:

Morton Salt Company, Chicago, Illinois	\$27.99/ton
International Salt Company, Clark Summit, PA	\$29.15/ton
Cargill, Inc., Watkins Glen, New York	\$28.10/ton

Morton Salt was awarded the contract as the low bidder on a firm fixed price basis.

Montgomery County recently issued an Invitation for Bid and awarded it to Cargill Inc., based on \$32.09 or a total of \$4.10/ton (14.6% higher than that available to the City under the Prince George's County Invitation for Bid.

Based on the above referenced information, it is recommended that award be made to Morton Salt Company for 1,000 tons at the total estimated cost to the City of \$27,990.00.

It is also recommended that the City agree to the extension of the contract for a six month period based upon review by the Director of Public Works.

On motion of Councilwoman Hovsepien, duly seconded passed by unanimous vote of all present, Invitation No. 9278 was awarded to the Morton Salt Company for a total estimated cost of \$27,990.00 with the option for extension of a six month period after review by the Director of Public Works.

Meeting No. 38-84

-8-

October 29, 1984

Re: Award of Contract:
Life Insurance
Program for City
employees

Request for Proposal #28-85 was issued for the purpose of obtaining City-wide Life Insurance and Accidental Death and Dismemberment Coverage for all of its employees. The City's intent is to complete a Multi-year contract to be effective for ten (10) years. The contract shall continue automatically each year unless otherwise terminated by the City.

Thirteen proposals were received by the deadline of 5:00 p.m. on Friday, October 19, 1984. The Request for Proposal required the companies to provide both a technical description of the proposed insurance coverage and a flat rate quotation per \$1,000 of insurance required by the City.

The Director of Personnel with the concurrence of the City Manager reviewed the companies' submittals to determine if the proposals were acceptable or unacceptable in accordance with the requirements of the City as stated in the specifications. Award is to be made to the responsible Company with the lowest quotation per \$1,000 of insurance and an acceptable insurance policy.

The following quotations were received:

	Premium per \$1,000 of Insurance
United States Life	\$.27
Washington National Life	\$.30
Canada Life	\$.30
North American Life Insurance	\$.33
Reliance Standard	\$.34
Fort Dearborn Life	\$.35
Life Insurance of North America (CIGNA)	\$.35
Northwestern National	\$.38
Pilot	\$.40
Minnesota Mutual	\$.42
Banker's Life	\$.43
United of Omaha	\$.44
Equitable Life Insurance	\$.445

The lowest acceptable proposal came from the Life Insurance Company of North America. A. M. Best Company is an organization that has been providing an independent analysis of the insurance industry since 1899. Based on Best's current analysis of the company's financial position and operation performance, they assigned a Best's Rating of A+ (Ex-cellent). Reference checks by telephone revealed a long history of excellent service by the Life Insurance Company of North America to its customers.

Based on the above information, it is recommended to award a ten year contract to the Life Insurance Company of North America. Based on the City's current number of employees, the estimated cost for the first year is \$2,765.25 premium per month or a total of \$33,183.00. On the policy anniversary, the Contractor will be allowed to present a rate change to the City. The City can either accept any proposed increase in rates or request proposals from other life insurance providers and terminate its present contract.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Proposal 28-85 for Life Insurance was awarded to the Life Insurance Company of North America for the first year total of \$33,183.00.

Re: Adoption of
Ordinance: To enact
a new Chapter 27 of
the Laws of
Rockville" entitled
"Amusements and
Vendors Regulations"
to regulate and
require licensing of
certain activities
within the City of
Rockville

Ordinance No. 37-84

Councilwoman Hovsepian asked if the staff has yet looked into the zoning changes that the Council had addressed at the last meeting. Mr. Groff said they are in the process of doing so. Mayor pro tem Abrams said it is the intention

Meeting No. 38-84

-10-

October 29, 1984

of this Council that the circumstances and concerns raised by the Hubcap Man will be treated by the Council in the Zoning Ordinance in an effort to ameliorate his problems. The Council agreed to this.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the amendments made to the ordinance since its introduction were approved.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Ordinance No. 37-84, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council was approved as amended.

Re: Adoption of Resolution:
To establish a fee schedule for permits required under the Amusements and Vendors Regulations Ordinance

Resolution No. 38-84

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Resolution No. 38-84, establishing a fee schedule for permits required under the Amusements and Vendors Regulations Ordinance, was adopted by the Mayor and Council.

Councilwoman Hovsepien suggested after a year's operation the staff come back to the Council with an analysis of the costs. Mr. Glasgow thanked Mr. Podolsky and Mr. Bob Groff for the tremendous amount of time put into this particular ordinance. Councilwoman Hovsepien asked that a letter be sent to the Twinbrook Pool explaining the action the Council took this evening.

Meeting No. 38-84

-11-

October 29, 1984

Re: Introduction of
Ordinance: To grant
Text Amendment Appli-
cation, T-59-84,
Mayor and Council of
Rockville, Applicant,
amending the text of
the zoning ordinance
so as to make City
child care regula-
tions compatible with
those of Montgomery
County

On motion of Councilman Duncan, there was introduced upon the table an ordinance to grant Text Amendment Application, T-59-84, Mayor and Council of Rockville, Applicant, amending the text of the zoning ordinance so as to make City child care regulations compatible with those of Montgomery County, said ordinance to lay over at least one week before final action is taken.

Re: Introduction of
Ordinance: To exempt
the City from the
applicability of
legislation enacted
by Montgomery County

On motion of Councilman Tyner, there was introduced upon the table an ordinance to exempt the City from the applicability of legislation enacted by Montgomery County, said ordinance to lay over at least one week before final action is taken.

Re: Introduction of
Ordinance: To repeal
certain provisions of
the Laws of Rockville
which are
substantially similar
to County
legislation, and to
repeal certain other
obsolete City laws.

On motion of Councilman Duncan, there was introduced upon the table an ordinance to repeal certain provisions of the Laws of Rockville which are

substantially similar to County legislation, and to repeal certain other obsolete City laws, said ordinance to lay over at least one week before final action is taken.

Councilman Tyner asked if any comment was received from the County staff. Sondra Block said there had been no objections noted. Councilman Tyner asked that the Mayor and Council be kept informed of any problems. Mrs. Block said there is time in the future to take care of any problems.

Re: Approval of Letter of Understanding in connection with an amended and restated disposition and development agreement for the Town Center

Mr. Blick told the Council that in July the City terminated the agreement with the New Rockville Town Center Partners (NRTCP) to sell the land located between the Rockville Mall, North Washington Street and also land on Middle Lane for the construction of a hotel and five office buildings. Termination was made because NRTCP had failed to provide evidence of having obtained a firm and binding commitment for interim and permanent financing. In August, NRTCP stated that they did not consider the agreement terminated and that they had made arrangements for financing the project. After consultation with the City Attorney, the Mayor and Council agreed an attempt should be made to see if an amendment to the original agreement could be negotiated. It would improve the City's position, result in the early construction of a hotel on the Courthouse Square site and avoid costly and lengthy litigation. After numerous sessions in the past months, the City has achieved the objectives. An amendment has been drafted that would require NRTCP to: 1) provide financing documents by January 15 and begin construction of the hotel by June 15. Failure of the former would result in a forfeiture of \$50,000, and of the latter, \$75,000. 2) The amendment would eliminate all references to the City's involvement in providing

parking. 3) The rest of the City's land on Middle Lane has been increased and will escalate at a faster rate if it is not built upon within 4 years. 4) More specific language has been included concerning amenities to be provided in the hotel. 5) To provide certainty to the lender that NRTCP has the option of paying to the City a sum of \$250,000 for use in achieving the City's objectives if NRTCP decides not to build residential units on the site.

If the agreement is approved by the Mayor and Council, both parties will sign a document releasing each other from suits and claims arising from a breach of the original agreement. Tonight the City Manager recommends that the Mayor and Council approve a letter of understanding stating the intent to sign the amended agreement no later than December 4 after conducting a public hearing on November 19.

Mayor pro tem Abrams noted that the decision to go forward must not be misconstrued to acknowledge the validity of any claim being asserted as to the rights of the developer to continue under the previous agreement. It is at the sole discretion of the City that this agreement is being entered. The agreement reflects a policy decision of the Mayor and Council to a commitment to the Town Center Plan. It is also a response to a developer who submitted a proposal to the City saying that a hotel is a viable use of the land. That will help to obtain the City's objectives for the Town Center and a return on the developer's investment.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, the Mayor and Council approved the letter of understanding between the Mayor and Council of Rockville and New Rockville Town Center Partners concerning the amended and restated disposition and development agreement for the Town Center and authorized the City Manager to execute the letter of understanding on behalf of the City upon verification by the City Attorney that

the amendments proposed by the Mayor and Council of Rockville on October 29, 1984, have been incorporated into the amended and restated agreement.

Councilwoman Hovsepien agreed it was a good action to take and reiterated the hope that the developers will perform as in the agreement. Councilman Tyner asked that copies of the documents be distributed for the public hearing on November 19.

Re: Approval of Minutes

On motion of Councilwoman Hovsepien, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 35-84, October 8, 1984, were approved as amended.

Re: Correspondence

1. J. B. & I. M. Downtown, re Safeway Store in Twinbrook
Don Burt, re Safeway Store in Twinbrook

Councilwoman Hovsepien asked that the Mayor and Council be kept informed on this.

Re: Information Items

1. Memo from Director of Public Works re speed humps

Councilman Tyner asked if there are significant differences between the residents and the staff. Mr. Goodin explained the need for a safety zone of 100 feet and said his staff is still working with them.

2. Planning Area 12 Committee Report

Councilman Tyner said this is very interesting. He asked Mayor pro tem Abrams the status of the task force. Mayor pro tem Abrams said the task force work is progressing and it is an informal structure. They were able to secure a siting balloon and Westmont now feels that the 15 story height may not be appropriate. They are awaiting the State Highway meeting that may show an improved traffic flow both to and from Westmont and from Westmont to I-270. Questions have arisen from the meeting concerning an underpass at Route 355 and Ritchie Parkway that will cost \$5 million. Who pays for it must be decided. It is possible that 2.1 million square feet can be accomplished without an underpass. He hopes by the next meeting to have an idea on configuration and improvements and the work that will be done to ramps at I-270. Councilwoman Hovsepien asked that the Mayor and Council be kept informed on all the traffic information. Mayor pro tem Abrams agreed since he said it should be looked at regardless of the Westmont development. The City Manager said it would be better to build First Street now and improve it in five or ten years than to await that time

to build it with or without an underpass. Mayor pro tem Abrams noted that at the same time the task force is looking into the relocation of the residential Monroe Street entrance.

3. Complimentary letter
4. News Release on New Rockville Town Center Partners
5. Planning staff report on Marriott Motel location
6. Planning staff report on Halpine Baptist Church

Councilman Tyner asked if he might have a copy of the Planning Commission recommendation.

7. Award of Bid No. 32-85, Hungerford Drive/Monroe Street traffic signals (below \$20,000)
8. Citizens complaints on neighborhood problems

Councilwoman Hovsepien asked what is being done in this area. The City Manager said that although since August there have been frequent police patrols in that neighborhood, police do not see the situation when they are there and they believe it is under control.

Re: New Business

1. Councilwoman Hovsepien asked that a letter be written to the Board of Education for their November 15 hearing supporting renovations to the Twinbrook Elementary School. She asked that the Education Commission be asked to write the same letter. The City Manager asked that a member of the Mayor and Council consider testifying at the hearing.

2. Mayor pro tem Abrams asked that the staff look into "No Turn On Red" at various locations downtown at Washington Street intersections, since it is very difficult to cross. He also asked if pedestrian lights would be installed and suggested the possibility of signs to assist pedestrians in the meantime.

Re: Executive Session

On motion of Councilwoman Hovsepien, duly seconded and passed by unanimous vote of all present, the meeting was closed for two items. The first item is litigation. The second item is an overriding reason of great importance in light of an important decision that has to be made relative to Mayoral

succession and closing the meeting would remove political posturing and allow frank and candid discussion.

Re: Adjournment

There being no further business to come before the Council in executive session the Meeting was adjourned until 7:30 Thursday night at which time Council would convene again in executive session.